

MULLINS LAW GROUP PLLC*Transportation Solutions for the 21st Century*2001 L Street NW, Suite 720
Washington, DC 20036ENTERED
Office of Proceedings
October 31, 2024
Part of
Public RecordCrystal M. Zorbaugh
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October 31, 2024

VIA E-FILINGCynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001Re: Norfolk Southern Railway Company – Abandonment Exemption –In The City
of Baltimore, Maryland AB-290 (Sub-No. 412X)

Dear Ms. Brown:

Pursuant to 49 C.F.R. Part 1152, Subpart F – Exempt Abandonments and Discontinuances Norfolk Southern Railway Company (“NSR”), is filing a verified notice of exemption to abandon its freight rail easement over an approximately 1.00-mile-long rail line, extending from Milepost +/- UU 0.00 to Milepost +/- UU 1.00 in the City of Baltimore, Maryland (the “Line”). A \$5,200.00 filing fee has been paid via Pay.gov. If there are any questions about this matter, please contact me directly, either by telephone: 202-663-7831 or by e-mail: czorbaugh@mullinslawgroup.net. If I am unavailable, you may contact William A. Mullins, who can be reached at (202) 663-7823 or by e-mail at wmullins@mullinslawgroup.net.

Respectfully submitted,

/s/ **Crystal M. Zorbaugh**Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

Enclosures

FILED
October 31, 2024
SURFACE
TRANSPORTATION BOARDFEE RECEIVED
October 31, 2024
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 412X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF BALTIMORE, MARYLAND**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

**Hanna M. Chouest
NORFOLK SOUTHERN CORPORATION
650 W Peachtree St N.W.
Atlanta, GA 30308
Tel: (470) 571-5208**

**William A. Mullins
Crystal M. Zorbaugh
Spencer M. Naake
MULLINS LAW GROUP PLLC
2001 L Street, NW
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Washington, DC 20037
Tel: (202) 663-7850
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**Attorneys for Norfolk Southern Railway
Company**

October 31, 2024

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 412X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF BALTIMORE, MARYLAND**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

INTRODUCTION

Norfolk Southern Railway Company (“NSR”) hereby submits a verified notice of exemption pursuant to 49 C.F.R. part 1152, subpart F (Exempt Abandonments and Discontinuances) for NSR to abandon rail its freight rail easement over an approximately 1.00-mile-long rail line,¹ extending from Milepost +/- UU 0.00 to Milepost +/- UU 1.00 in the City of Baltimore, Maryland (the “Line”).²

¹ **NSR Acquisition of the Line’s Freight Operating Easements and Rights.** According to NSR’s research, on May 1, 1990, the Maryland Transit Administration (“MTA”) acquired the Cockeysville Industrial Track (“CIT”) from Consolidated Rail Corporation (“Conrail”), a freight railroad, to be used as part of the Central Light Rail Line, a light rail transit service between downtown Baltimore, Timonium and Glen Burnie, Maryland. See Maryland Transit Administration - Petition for Declaratory Order, FD 34975, slip opinion at 3 (STB served October 9, 2007) (“MTA I”). Pursuant to the “Agreement of Sale,” dated May 1, 1990, and executed by MTA and Conrail, “[t]he Agreement of Sale and the deed reserved to Conrail a perpetual, assignable, exclusive freight operating easement over the CIT, so that Conrail could fulfill its common carrier obligation to provide freight rail service to present and future customers.” See MTA I at 3. Conrail’s interest in the CIT was first allocated initially to Conrail’s former subsidiary, Pennsylvania Lines, LLC (“PL”), then, effective June 1, 1999, NSR leased and operated the CIT until August 27, 2004, when the merger of PL into NSR was completed. See CSX Corporation and CSXT Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation, FD 33388 (Sub-No. 94), Decision No. 2 (STB served November 5, 2003). In 2010, the Board granted NSR’s exemption to abandon 13.26-miles of the CIT. See Norfolk Southern Railway Company—Petition for Exemption—In Baltimore City and Baltimore County, MD, AB 290 (Sub-No. 311X) (STB Served April 5, 2010); see also Norfolk Southern Railway Company, AB 290 (Sub-No. 311X) at 7, n. 6 (STB received December 16, 2009) (“NSR Petition”) (“NSR’s calculation of the total mileage for the Line is 0.04-mile (211 feet) longer than the 14.22 miles specified in the Agreement of Sale;” and that “this small difference in the mileage descriptions appears attributable to rounding, since 15.44 rounds to 15.4...”).

² **Explanation of Mileposts, Length of Line.** In its 2007 Petition seeking confirmation that ICC approval of the 1990 transaction was not required, the MTA explained that the CIT is 14.22 miles long but between mileposts

As noted in FN 3, NSR retained the “freight operating easement, rights and operations” for the Line, the remaining portion of the CIT, and the rail line subject to NS’s proposed abandonment. The sale of this corridor by NSR to MTA included a provision whereby NSR agreed to abandon its freight rights if NSR did not exercise those freight rights over a period of sixty (60) consecutive months.³ As NSR has not exercised its freight rights pursuant to the terms of the sale agreement, NSR is fulfilling its contractual obligation. The alternative to abandonment of freight rights on the Line is to not abandon the freight rights on the Line. This alternative is not satisfactory as NSR is contractually obligated to abandon its freight rights under its agreement with the MTA.

MTA Ownership of Line, Materials; MTA’s Non-Common Carrier Status As To Freight Service. The MTA owns the entire Line over which NSR will abandon its freight rail easement. As described in FN 3, MTA, which is part of the Maryland Department of Transportation (“MDOT”), acquired the CIT from Conrail in 1990. In MTA I and Maryland Transit Administration - Petition for Declaratory Order, F.D. 34975, slip opinion at 3 (STB served September 19, 2008) (“MTA II”), the Board found that MTA’s 1990 acquisition of the CIT did not require agency (ICC) authorization under 49 U.S.C. § 10901, and that MTA did not acquire a common carrier obligation by virtue of its acquisition of the CIT in 1990 or transactions it has taken since that time.

MTA Passenger Rail Transit. MTA currently operates passenger rail transit service over the Line. MTA’s light rail transit system now carries over 24,000 passengers per day over the Line. The

0.0 and 15.4, because milepost 0.00 was moved 1.18 miles up the line when Calvert Station (the location of the original milepost 0.0) was demolished in 1947. Effectively, the 14.22-mile line in 2010 was located between milepost UU 1.18 (located just north of Wyman Park Drive and the end of the CIT line south of the bridge at railroad milepost UU 15.44. Id. In NSR’s petition for its 2010 abandonment, it was noted that “NSR [was] retaining the freight operating easement, rights and operations for the first mile of the CIT between current Mileposts UU-0.0 and UU-1.00 where NSR operates its Baltimore, MD Thoroughbred Bulk Transfer Terminal.” See NSR Petition at 7, n. 6.

³ See MTA I, slip. op. at 7 (“The Operating Agreement requires the freight railroad to seek abandonment if it ceases using the CIT track for rail service for 60 consecutive months,” and “[w]hile the Operating Agreement...requires the freight railroad actually to file for abandonment (if the condition for seeking abandonment is met), the Board would still have to authorize the abandonment.”)

Line is part of MTA's 30-mile light rail system which runs from Hunt Valley in Baltimore County, through the heart of Baltimore City, past Oriole Park at Camden Yards, to Cromwell Station/Glen Burnie in Anne Arundel County, MD and links to buses and subways along its route. As such, the Line will remain intact and in operation for passenger rail transit purposes.

Nature of Relief Requested. Consistent with precedent in similar STB proceedings,⁴ NSR submits a verified notice of exemption to abandon rather than to discontinue service over the Line with respect to relinquishment of its freight operating rights and freight service operations over the Line, which have not been exercised in over five years. Because MTA has no residual common carrier obligation to provide rail freight service over the Line, the entire common carrier obligation of any rail carrier or party to provide freight service over the Line will be extinguished with the abandonment of the freight operating rights. The freight operating rights over the Line will be relinquished, and all rail freight service over the Line will be discontinued permanently upon grant of the exemption, NSR's satisfaction of any conditions imposed by the Board and NSR's formal consummation of the abandonment of the freight operating rights and operations over the Line, after which NSR will relinquish its freight operating easement for the Line.

⁴ See BNSF Railway Company – Abandonment Exemption – In Los Angeles County, California, AB 6 (Sub-No. 499X) (STB served July 15, 2019) (“BNSF Abandonment Exemption”) (the Board approved BNSF Railway Company's abandonment of its freight rail easement when the physical assets of the rail line were owned by the Los Angeles County Metropolitan Transportation Authority); see also Portland & Western Railroad, Inc.—Abandonment Exemption—In Washington County, OR., AB 541 (Sub-No. 3X), slip op. at 1, n. 1 (STB served February 23, 2023); citing Ga. Cent. Ry.—Aban. Exemption—in Chatham Cnty., Ga., AB 367 (Sub-No. 2X), slip op. at 2, n. 3 (STB served Sept. 17, 1997) (noting that an abandonment exemption is appropriate for relinquishment of a freight rail easement, even when the State of Oregon owned the underlying property, as the Board has “never held that passive ownership of underlying real estate confers a common carrier obligation.”)

The Line traverses the United States Postal Zip Code territories 21201 and 21211. The entirety of the Line is in the City of Baltimore, Maryland. Per the requirements of 49 C.F.R. §§ 1152.50(b) and (d), NSR provides the following information in support of this notice of abandonment:

Certification: 49 C.F.R. § 1152.50(b)

NSR certifies that the Line satisfies the criteria for abandonment under the exemption provisions at 49 C.F.R. part 1152, subpart F. See Certification of Michael McClellan, Vice President (Exhibit A). During the past two years, no local traffic has moved over the Line and any overhead traffic on the Line can be rerouted over other lines, and no formal complaint filed by a user of rail service on the Line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the 2-year period.

Proposed Consummation Date: 49 C.F.R. § 1152.50(d)(2)

The proposed abandonment will be consummated on or after December 20, 2024 (50 days after filing the notice of exemption).

Additional Information Required: 49 C.F.R. §§ 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

Exact name of applicant (49 C.F.R. § 1152.22(a)(1)):

Norfolk Southern Railway Company

Whether applicant is a common carrier by railroad (49 C.F.R. § 1152.22(a)(2)):

Norfolk Southern Railway Company is a common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV.

Relief sought (49 C.F.R. § 1152.22(a)(3)):

NSR hereby invokes the Board's two-year-out-of-service class exemption procedures to abandon its freight rail easement over an approximately 1.00-mile-long rail line, extending from Milepost +/- UU 0.00 to Milepost +/- UU 1.00 in the City of Baltimore, Maryland (the "Line"). The Line traverses the United States Postal Zip Code territories 21201 and 21211.

Map (49 C.F.R. § 1152.22(a)(4)):

A detailed map showing the location of the Line is attached hereto as Exhibit B.

Applicant's representatives (49 C.F.R. § 1152.22(a)(7)):

NSR's representatives to whom correspondence should be sent are as follows:

William A. Mullins
Crystal M. Zorbaugh
Spencer M. Naake
MULLINS LAW GROUP PLLC
2001 L St., NW, Suite 720
Washington, DC 20036
Tel: (202) 663-7831

USPS ZIP codes (49 C.F.R. § 1152.22(a)(8)):

The Line is located in the following United States Postal Zip Code territories: 21201 and 21211.

Suitability of the Line for Other Public Purposes (49 C.F.R. § 1152.22(e)(4)):

The physical assets of the Line are owned by the MTA and passenger services provided by MTA over the Line will continue after NSR's abandonment of its freight rail easement. Consequently, the corridor is not available for redeployment for alternative public use(s). Based on these unique considerations, NSR does not intend to negotiate for trail use/rail banking. The Line does not contain any federally granted right-of-way. As appropriate, NSR is willing to promptly make available any information in its possession to anyone so requesting it.

Labor Protection

Because freight service over the Line has been inactive for over five years, no railroad employees will be adversely affected by the exercise of abandonment authority. Nevertheless, the interests of NSR's employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions set forth in Oregon Short Line R. Co – Abandonment – Goshen, 360 I.C.C. 91 (1979).

Certifications

Attached hereto as Exhibit C are Certificates of Service and Publication certifying compliance with the advance notice and newspaper publication requirements set forth at 49 C.F.R. § 1152.50(d)(1) and 49 C.F.R. § 1105.12, respectively. Attached as part of Exhibit D is a certificate of compliance with the advance notice requirements for Environmental and Historic Reports (“E&HR”) as set forth at 49 C.F.R. § 1105.11.

Environmental and Historic Report

As is reflected in the certificate of compliance with the provisions of 49 C.F.R. § 1105.11 (see Exhibit D), NSR has prepared an E&HR in anticipation of the proposed abandonment, which conforms to the requirements of 49 C.F.R. §§ 1105.7 and 1105.8. A copy of the E&HR is attached hereto as Attachment 1 to Exhibit D (§ 1105.11 certification).

Respectfully submitted,

/s/ ***Crystal M. Zorbaugh***

Hanna M. Chouest
NORFOLK SOUTHERN CORPORATION
650 West Peachtree St., NW
Atlanta, GA 30308
Tel: (470) 571-5208

October 31, 2024

William A. Mullins
Crystal M. Zorbaugh
Spencer M. Naake
MULLINS LAW GROUP PLLC
2001 L St., NW
Suite 720
Washington, DC 20036
Tel: (202) 663-7831

Attorneys for Norfolk Southern Railway Company

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 412X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF BALTIMORE, MARYLAND**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

VERIFICATION

Verification

I, Michael McClellan, Vice President for Norfolk Southern Railway Company ("NSR"), hereby verify under penalty of perjury that to the best of my knowledge, the foregoing abandonment notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of NSR in connection with this proceeding before the Surface Transportation Board.

Executed this 28 day of October, 2024



Michael McClellan
Vice President
Norfolk Southern Railway Company

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 412X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF BALTIMORE, MARYLAND**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT A

CERTIFICATION

CERTIFICATION

STATE OF GEORGIA:

SS:

CITY OF ATLANTA:

Michael McClellan makes oath and says that he is Vice President for Norfolk Southern Railway Company ("NSR"); that the approximately 1.00-mile-long rail line, extending from Milepost +/- UU 0.00 to Milepost +/- UU 1.00 in the City of Baltimore, Maryland (the "Line"), over which NSR's freight rail easement is to be abandoned, is subject to his supervision and direction; that no local traffic has moved over the Line for at least 2 years and any overhead traffic on the Line can be rerouted over other lines and that no formal complaint filed by a user of rail service on the Line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the 2-year period.



Michael McClellan
Vice President

Subscribed and sworn to before me
this 28 day of October 2024.



Notary Public

My commission expires:

April 19, 2026

SHANNON EPPERS

NOTARY PUBLIC

STATE OF GEORGIA - FULTON COUNTY

MY COMMISSION EXPIRES APRIL 19, 2026

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 412X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF BALTIMORE, MARYLAND**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT B

MAP



MP UU 1.0

WYMAN PARK DRIVE

W 29TH STREET

W 28TH STREET

MARYLAND TRANSIT
ADMINISTRATION - MTA

JONES FALL EXPRESSWAY

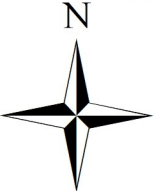
WEST NORTH AVE

NORTH HOWARD STREET

MP UU 0.00

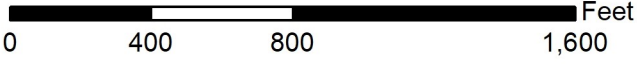
COCKEYSVILLE IT

UU 1.00 to UU 0.00
BALTIMORE MARYLAND
Docket Number: AB(290)412X



— MTA Rail - NS Overhead Freight Rights Only

MILEPOST LOCATIONS ARE APPROXIMATE



**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 412X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF BALTIMORE, MARYLAND**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT C

CERTIFICATES OF SERVICE/PUBLICATION

Certificate of Service of Advance Notice

49 C.F.R. § 1152.50(d)(1) – Notice

I certify that, on October 21, 2024, in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with the written notice of intent of Norfolk Southern Railway Company to invoke the Board’s notice of exemption procedures to abandon its freight rail easement over an approximately 1.00-mile-long rail line, extending from Milepost +/- UU 0.00 to Milepost +/- UU 1.00 in the City of Baltimore, Maryland (the “Line”). I further certify that the Line does not contain any federally granted right of way.

Public Service Commission, et al.

Maryland Public Service Commission
6 Saint Paul Street, 16th Floor
Baltimore, MD 21202

John Thomas, Director
Office of Rail and Intermodal Freight
Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, MD 21076

Department of Defense (Military Traffic Management Command, Transportation Engineering Agency, Railroads for National Defense Program)

Sean Neef
Headquarters Military Surface Deployment and Distribution Command
Transportation Engineering Agency
Railroads for National Defense Program
1 Soldier Way, Rm 3129
Scott AFB, IL 62225-5006

The National Park Service, Recreation Resources Assistance Division

Mr. Bob Ratcliffe, Chief
Chief, Conservation and Outdoor Recreation Division
Rivers, Trails, and Conservation Assistance Program
1849 C. Street NW, Room 1344
Washington, DC 20240

U.S. Department of Agriculture, Chief of the Forest Service

Randy Moore
Chief of Forest Service
US Forest Service
1400 Independence Ave., SW
Washington, D.C.
20250-0003

October 31, 2024

/s/ *Crystal M. Zorbaugh*

Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

Certificate of Newspaper Publication

49 C.F.R. § 1105.12 – Newspaper Notice

I certify that a “Notice of Intent to Abandon Rail Service” was published in the form prescribed by the Board for abandonment notices of exemption (49 C.F.R. § 1105.12). The notice was published one time on October 23, 2024, in The Baltimore Sun, a newspaper of general circulation in the city of Baltimore, Maryland.

October 31, 2024

/s/ *Crystal M. Zorbaugh*
Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

Baltimore Sun

Publication Name:

Baltimore Sun

Publication URL:

Publication City and State:

Baltimore, MD

Publication County:

Baltimore City

Notice Popular Keyword Category:

Notice Keywords:

Notice Authentication Number:

202410240625114459723**3626623490**

Notice URL:

[Back](#)

Notice Publish Date:

Wednesday, October 23, 2024

Notice Content

NOTICE OF INTENT TO ABANDON RAIL SERVICE AB-290 (Sub-No. 412X) Norfolk Southern Railway Company ("NSR") gives notice that on or about October 31, 2024, it intends to file with the Surface Transportation Board ("Board"), Washington, DC 20423, a Notice of Exemption pursuant to 49 C.F.R Part 1152 Subpart F – Exempt Abandonments and Discontinuances, permitting NSR to abandon rail service over an approximately 1.00-mile rail line, extending from Milepost +/- UU 0.00 to Milepost +/- UU 1.00 (the "Line") in the City of Baltimore, Maryland. The Line traverses the United States Postal Zip Code territories 21201 and 21211. There are no customers served on the Line. No common carrier freight service has been provided over the Line for more than five years. The proceeding has been docketed as AB-290 (Sub-No. 412X). The proposed action entails the abandonment of rail service over the Line. For abandonments, the Board's Office of Environmental Analysis ("OEA") generally will prepare an Environmental Assessment ("EA"), which normally will be available 25 days after the filing of the abandonment notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public. Such comments will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to OEA, Surface Transportation Board, 395 E Street, SW, Washington, D.C. 20423, or by calling that office at (202) 245-0295. Appropriate offers of financial assistance ("OFA") to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails public use, and OFA) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423 [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and one copy must be served on the applicants' representative [See 49 CFR § 1104.12(a)]. Questions regarding OFAs, public use, or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on the applicant's representative: Crystal M. Zorbaugh, MULLINS LAW GROUP PLLC, 2001 L Street NW, Suite 720, Washington, DC 20036; phone: 202-663-7823. 10/23/24 7715594

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**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 412X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF BALTIMORE, MARYLAND**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT D

CERTIFICATE OF COMPLIANCE WITH ENVIRONMENTAL AND HISTORIC REPORT REQUIREMENTS

Certificate of Compliance

49 C.F.R. § 1105.11 – Advance Distribution of Environmental and Historic Report

I hereby certify that, on September 23, 2024, a copy of Norfolk Southern Railway Company's Consolidated Environmental and Historic Report for the proposed abandonment encompassed by AB-290 (Sub-No. 412X), accompanied by a transmittal letter conforming to the requirements of 49 C.F.R. § 1105.11, was served upon the following entities as prescribed by 49 C.F.R. § 1105.7(b) and 1105.8(c) (copies of the transmittal letters are also appended hereto as part of Attachment 1):

Maryland State Clearinghouse
Department of State Planning
120 E. Baltimore St., Suite 2000
Baltimore, MD 21202

The Honorable Brandon M. Scott, Mayor
250 City Hall
100 North Holliday Street
Baltimore, Maryland 21202

Dr. John A. Olszewski, Jr.
Baltimore County Executive
The Historic Courthouse
400 Washington Avenue
Towson, MD 21204

Colonel Estee S. Pinchasin
United States Army Corps of Engineers
Baltimore District
2 Hopkins Plaza
Baltimore, MD 21201

Kyla Hastie – Acting Regional Director
US Fish and Wildlife Service
Northeast Region
30 Westgate Center Drive
Hadley, MA 01035

Steve Minkinen
Maryland Fish and Wildlife Conservation
Office
177 Admiral Cochrane Drive
Annapolis, MD 21410-7307

Suzy Daubert – Maryland State
Conservationist
USDA GWCC NRCS
Stop 5598 c/o Annapolis State Office
5601 Sunnyside Avenue
Beltsville, MD 20705

Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Adam Ortiz, Regional Administrator
United States EPA – Region 3
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2029

Serena McIlwain – Secretary
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230

Matt Fleming - Director
Maryland Coastal Zone Management
Program
Chesapeake and Coastal Service
Tawes State Office Building E2
580 Taylor Avenue
Annapolis, MD 21401

Gay Vietzke, Regional Director
National Park Service
Region 1
1234 Market Street, 20th Floor
Philadelphia, PA 19107

Bob Ratcliffe, Chief
Conservation and Outdoor Recreation
Division

Rivers, Trails, and Conservation Assistance
Program
1849 C. Steet NW, Room 1344
Washington, DC 20240

NOAA –National Geodetic Survey
Geodetic Services Division
Room 922, NGS/12
1315 East West Highway
Silver Spring, MD 20910-3282

Elizabeth Hughes
State Historic Preservation Officer
Maryland Historical Trust
100 Community Place, 3rd Floor
Crownsville, MD 21032-2023

/s/Crystal M. Zorbaugh

Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

ATTACHMENT 1

**ENVIRONMENTAL AND HISTORIC REPORT
INCLUDING SAMPLE TRANSMITTAL LETTER**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 412X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION-
IN THE CITY OF BALTIMORE, MD**

Combined Environmental and Historic Report

Scott Plum, Director
Strategic Planning – Box 7
Norfolk Southern Corporation
650 West Peachtree Street, NW
Atlanta, GA 30308
(470) 463-6627
scott.plum@nscorp.com

October 31, 2024

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 412X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION-
IN THE CITY OF BALTIMORE, MD**

Combined Environmental and Historic Report

Norfolk Southern Railway Company ("NSR") submits this Environmental and Historic Report ("E&HR") pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, in connection with NSR's proposed abandonment of an approximately 1.00-mile rail line,¹ extending from Milepost +/- UU 0.00 to Milepost +/- UU 1.00 (the "Line")² in the City of Baltimore,

¹ **NSR Acquisition of the Line's Freight Operating Easements and Rights.** According to NSR's research, on May 1, 1990, the Maryland Transit Administration ("MTA") acquired the Cockeysville Industrial Track ("CIT") from Consolidated Rail Corporation ("Conrail"), a freight railroad, to be used as part of the Central Light Rail Line, a light rail transit service between downtown Baltimore, Timonium and Glen Burnie, Maryland. See Maryland Transit Administration - Petition for Declaratory Order, F.D. 34975, slip opinion at 3 (STB served October 5, 2007). Pursuant to the "Agreement of Sale," dated May 1, 1990, and executed by MTA and Conrail, "[t]he Agreement of Sale and the deed reserved to Conrail a perpetual, assignable, exclusive freight operating easement over the CIT, so that Conrail could fulfill its common carrier obligation to provide freight rail service to present and future customers." See Maryland Transit Administration, F.D. 34975, slip opinion at 3 (STB served October 5, 2007). In addition, "[t]he Operating Agreement requires the freight railroad to seek abandonment if it ceases using the CIT track for rail service for 60 consecutive months." Id. at 7. Conrail's interest in the CIT was first allocated initially to Conrail's former subsidiary, Pennsylvania Lines, LLC ("PL"), then, effective June 1, 1999, NSR leased and operated the CIT until August 27, 2004, when the merger of PL into NSR was completed. See CSX Corporation and CSXT Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation, FD 33388 (Sub-No. 94), Decision No. 2 (STB served November 5, 2003).. In 2010, the Board granted NSR's exemption to abandon 13.26-miles of the CIT. See Norfolk Southern Railway Company—Petition for Exemption—In Baltimore City and Baltimore County, MD, AB 290 (Sub-No. 311X) (STB Served April 5, 2010); see also Norfolk Southern Railway Company, AB 290 (Sub-No. 311X) at 7, n. 6 (STB received December 16, 2009) ("NSR Petition") ("NSR's calculation of the total mileage for the Line is 0.04-mile (211 feet) longer than the 14.22 miles specified in the Agreement of Sale;" and that "this small difference in the mileage descriptions appears attributable to rounding, since 15.44 rounds to 15.4...").

² **Explanation of Mileposts, Length of Line.** In its 2007 Petition seeking confirmation that ICC approval of the 1990 transaction was not required, the MTA explained that the CIT is 14.22 miles long but between mileposts 0.0 and 15.4, because milepost 0.00 was moved 1.18 miles up the line when Calvert Station

Maryland. As noted in FN 2, NS retained the “freight operating easement, rights and operations” for the Line, which is the remaining portion of the CIT, and the rail line subject of NS’s proposed abandonment.

(the location of the original milepost 0.0) was demolished in 1947. Effectively, the 14.22-mile line in 2010 was located between milepost UU 1.18 (located just north of Wyman Park Drive and the end of the CIT line south of the bridge at railroad milepost UU 15.44. Id. In NSR’s petition for its 2010 abandonment, it was noted that “NSR [was] retaining the freight operating easement, rights and operations for the first mile of the CIT between current Mileposts UU-0.0 and UU-1.00 where NSR operates its Baltimore, MD Thoroughbred Bulk Transfer Terminal.” See NSR Petition at 7, n. 6.

ENVIRONMENTAL REPORT

49 CFR 1105.7(e)(1)

Proposed Action and Alternatives

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

NSR proposes to abandon freight rights on an approximately 1.0-mile-long-rail line extending from Milepost +/- UU 0.00 to Milepost +/- UU 1.00 in the City of Baltimore, Maryland. There are no NSR owned or maintained structures (bridges or tunnels) on the Line.

No customers have been served on the Line for more than 5 years. As NSR is abandoning its freight rights over a corridor owned by another entity, the Maryland Transit Administration (MTA), neither NSR nor MTA will be conducting salvage operations. Accordingly, NSR believes that no storm water mitigation measures including, but not limited to, a National Pollutant Discharge Elimination System permit will be required.

The sale of this corridor by NSR to MTA included a provision whereby NSR agreed to abandon its freight rights if NSR did not exercise those freight rights over a period of sixty (60) consecutive months. As NSR has not exercised its freight rights pursuant to the terms of the sale agreement, NSR is fulfilling its contractual obligation. The alternative to abandonment of freight rights on the Line is to not abandon the freight rights on the Line. This alternative is not satisfactory as NSR is contractually obligated to abandon its freight rights under its agreement with the MTA.

A map depicting the Line is attached as **Appendix A**. An example of NSR's letter to federal, state and local government agencies along with a list of the consulting agencies that NSR

has contacted is attached as **Appendix B**. Comments received as a result of NSR's written requests for feedback can be found in **Appendix C**.

49 CFR 1105.7(e)(2) Transportation system.

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

Effects of the proposed action on regional or local transportation systems and patterns would be negligible. There is no NSR rail freight originating or terminating on the Line. NS knows of no known impact to MTA passenger/commuter operations and no passenger or freight traffic would be diverted to other systems or modes because of the proposed abandonment.

49 CFR 1105.7(e)(3) Land use.

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

NSR believes that the proposed abandonment is consistent with, and would promote, existing land use plans. The land adjoining the Line consists of a combination of commercial and residential areas. An outline of future land use plans has been requested from the City of Baltimore, Maryland, and Baltimore County, Maryland, both of which were asked to comment on the consistency of the proposed abandonment of the Line with existing land use plans.

By letter dated September 8, 2023, the City of Baltimore replied that it had no objection to the abandonment of the Line as the property is zoned for industrial use and is not located within an Urban Renewal Plan area. See E&HR Consultation Letter Example and Recipient List, attached as Appendix B.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

NSR does not believe the abandonment will have any adverse impact on prime agricultural land because NSR is only abandoning freight rights on the Line, and MTA passenger service will be unaffected. Nevertheless, a copy of this E&HR was mailed to The United States Department of Agriculture Natural Resources Conservation Service (“USDA NRCS”) on September 23, 2024 for its input and to provide USDA NRCS an opportunity to comment and has requested assistance in identifying any potential effects on prime agricultural land. See Appendix B.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by Sec. 1105.9.

While the Line is located within a coastal zone, NSR is only abandoning freight rights on the line – the line is not being salvaged and MTA passenger service will remain unaffected. However, a copy of this E&HR was mailed on September 23, 2024 to the Maryland Coastal Zone Management Program for its input and opportunity to comment, to assure compliance with the requirements of section 49 C.F.R. 1105.9. See Appendix B.

(iv) If the proposed action is an abandonment state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.

NSR is no longer the owner of the underlying right-of-way. NSR is only abandoning its freight rights and the MTA’s underlying ownership of the Line is unaffected. Therefore, the Line is not available for redeployment for alternative public use(s).

49 CFR 1105.7(e)(4) Energy.

(i) Describe the effect of the proposed action on transportation of energy resources.

Development and transportation of energy resources will not be affected by the abandonment. There is no NSR rail freight originating or terminating on the Line. MTA passenger operations will remain unaffected

(ii) Describe the effect of the proposed action on recyclable commodities.

Movement or recovery of recyclable commodities will not be affected by the abandonment.

There is no NSR rail freight traffic originating or terminating on the Line.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

The proposed action will not result in any material impact in overall energy efficiency because there is no NSR rail freight traffic originating or terminating on the Line. Existing MTA passenger operations will remain unaffected.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year; or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

The diversion of traffic to motor carriers will not exceed the thresholds set forth at 49 CFR §1105.7(e)(4) as no diversions will occur. Accordingly, there is no need to produce data on diverted traffic or to quantify the net change in energy consumption.

49 CFR 1105.7(e)(5) Air.

(i) If the proposed action will result in either:

(A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

The above thresholds will not be exceeded.

(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

(B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.

The above thresholds will not be exceeded.

(iii) If transportation of ozone depleting materials (such as nitrogen oxide and Freon®) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

Not applicable.

49 CFR 1105.7(e)(6) Noise.

If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

- (i) An incremental increase in noise levels of three decibels Ldn or more; or*
- (ii) An increase to a noise level of 65 decibels Ldn or greater.*

If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

The above thresholds will not be exceeded.

49 CFR 1105.7(e)(7) Safety.

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

The proposed abandonment of freight rights of way will have no adverse impact on public health and safety.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

No hazardous materials are expected to be transported, and, indeed, no traffic of any kind has moved over the Line in over five years.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

NSR has no knowledge of hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way or in areas adjacent to the Line.

49 CFR 1105.7(e)(8) Biological Resources.

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

NSR does not believe the abandonment of freight rights will have any adverse effect to endangered or threatened species or areas designated as a critical habitat. As neither NSR nor MTA are salvaging the line and MTA passenger service will remain unaffected, the proposed abandonment will have no effect of the status quo of local species, areas, or habitats. Nevertheless, NSR notified the U.S. Fish and Wildlife Service (“USF&W”) and the Maryland Fish and Wildlife Service (“MFWS”) of the proposed abandonment by letter dated September 23, 2024. A copy of this report was attached to the letter sent to USF&W and MFWS. See Appendix B.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

Having consulted local maps, NSR has determined that the Line does not pass through state parks or forests, national parks or forests, or wildlife sanctuaries. As such, no adverse effects on wildlife sanctuaries, national parks or forests, or state parks or forests are anticipated. Regardless, NSR requested input and comment from the National Park Service (“NPS”) by letter dated September 23, 2024. A copy of this report was attached to the letter sent to NPS. See Appendix B.

49 CFR 1105.7(e)(9) Water.

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

NSR is only abandoning its freight rights on the line. MTA passenger operations will be

unaffected. As such, NSR and MTA do not intend to remove or alter the contour of the roadbed underlying the Line to be abandoned by way of excavation or other ground-disturbance activity. Accordingly, no soils will be disturbed as a result of the proposed abandonment, and no storm water mitigation measures – including, but not limited to, a National Pollutant Discharge Elimination System permit – will be required. There are no plans to undertake in-stream work, or dredge and/or use any fill materials in connection with the proposed abandonment, so, for this reason also, the proposed abandonment will not result in water quality impacts. NSR currently provides no rail service over the Line and has not done so for more than five years.

Consultation has been requested from the Maryland Department of the Environment (“MD DEM”) and the United States Environmental Protection Agency (“EPA Region 3”) by letters dated September 23, 2024. A copy of this report was attached to each of these letters. In electronic correspondence received on October 10, 2024, the Maryland Department of the Environment agreed with NS’ contention that the abandonment would have no detrimental effect on the environment. See Appendix C.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

NSR is only abandoning its freight rights on the Line. The geometry of the roadbed will not be altered and no in-stream work is contemplated. No discernible effects on either 100-year flood plains or adjacent wetlands are expected in connection with the proposed abandonment. Consultation was requested from the U.S. Army Corps of Engineers Baltimore District Office (“USACE”) by letter dated September 23, 2024. A copy of this report was attached to the letter. Through an initial inquiry, USACE advised, in electronic correspondence, that since this is a legal change, and no waters of the U.S. would be impacted by the work necessary to compete the

abandonment, no Section 404 permit would be required from the USACE. See Appendix C.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

NSR is only abandoning freight rights. Neither NSR nor MTA plan to remove or alter the roadbed underlying the Line, or to undertake in-stream work or to dredge or use any fill materials. There will be no excavation or other ground-disturbance activity, and, because no soils will be disturbed, no storm water mitigation measures – including, but not limited to, a National Pollutant Discharge Elimination System permit – will be required. NSR anticipates that the abandonment will not affect water quality and that additional permitting under Section 402 will not be required. Nevertheless, NSR has requested input from EPA Region 3 and MD DEM regarding this item by letter dated September 23, 2024. A copy of this report was attached to the letter. No comments have been received yet.

49 CFR 1105.7(e)(10) Proposed Mitigation.

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Abandonment of the Line is not expected to produce adverse environmental impacts for the reasons set forth above. No salvage activities will occur as NSR is only abandoning freight rights. MTA passenger operations will remain unaffected. However, NSR will undertake all reasonable mitigation associated with these activities as directed by the Board to assure the abandonment does not produce adverse environmental impacts, including consulting with federal, state, and/or local agencies on any mitigation measures they may recommend to the Board.

49 CFR 1105.7(e)(10) Additional Information for Rail Constructions

Not Applicable.

HISTORIC REPORT

49 CFR 1105.8(d)

PROPOSED ACTION AND ALTERNATIVES

NSR proposes to abandon an approximately 1.00-mile rail line, extending from Milepost +/- UU-0.00 to Milepost +/- UU 1.0 0 (the "Line") in the City of Baltimore, MD. No customers have been served on the Line for over five years. As explained above in FN 1, the operating agreement requires NSR to seek abandonment if it ceases using the CIT track for rail service for 60 consecutive months (or five years).

As NSR is only abandoning freight rights, and MTA passenger service is unaffected, NSR believes that no storm water mitigation measures - including, but not limited to, a National Pollutant Discharge Elimination System permit - will be required.

The alternative to abandonment of freight rights on the Line is to not abandon the freight rights on the Line. This alternative is not satisfactory as NSR is contractually obligated to abandon its freight rights under its agreement with the MTA.

A map depicting the Line is attached in **Appendix A**.

ADDITIONAL INFORMATION

(1) **U.S.G.S. Topographic Map** – There are no NSR owned or maintained structures on the Line proposed for abandonment. On September 23, 2024, NSR provided the U.S.G.S. topographic maps to the Maryland State Historic Preservation Office ("MSHPO") as part of a complete copy of this report.

(2) **Written Description of Right of Way** – NSR sold the right-of-way to the MTA in 1990 and only retained freight rights on the Line. NSR has no knowledge regarding changes made to the right-of-way by MTA.

(3) **Photographs** – Not applicable as there are no NSR owned or maintained structures (bridges or tunnels) on the Line.

(4) **Date of Construction of Structures** – Not applicable.

(5) **History of Operations and Changes Contemplated** - Milepost +/- UU-0.00 to Milepost +/- UU 1.00 (the “Line”) in the City of Baltimore, Maryland. According to NSR’s research, the Line was originally part of the Baltimore & Susquehanna Railroad Company’s (“B&S”) rail line, chartered by an act of the General Assembly of Maryland in 1928. In 1854, the B&S merged with the York & Maryland Line, the York & Cumberland, and the Susquehanna Railroads to form the Northern Central Railway Company (“Northern Central”). Subsequently, in 1861, the Northern Central came under the control of the Pennsylvania Railroad (PRR), when the PRR acquired controlling interest in the Northern Central’s stock. Until 1968, the Northern Central operated as a subsidiary of the PRR but when the PRR merged with the New York Central railroad, it became a subsidiary of the newly formed Penn Central. In 1970, Penn Central filed for bankruptcy protection. Subsequently, much of its Maryland Trackage was washed out by Hurricane Agnes, after which the Penn Central declined to repair destroyed sections. Penn Central continued to operate under court supervision until 1976, when its lines were transferred to Conrail under the Railroad Revitalization and Regulatory Reform Act. In 1984, the Maryland Department of Natural Resources converted the corridor north of Cockeysville, which was washed out by Hurricane Agnes, into the Torrey C. Brown Rail Trail (a.k.a. the Northern Central Rail Trail). As discussed

above, in 1990, the MTA acquired the CIT from Conrail to be used as a part of the Central Light Rail Line but Conrail retained a “perpetual, assignable, exclusive freight operating easement” over the CIT. Conrail’s interest in the CIT was first allocated to Conrail’s former subsidiary, Pennsylvania Lines, LLC (“PL”), then, effective June 1, 1999, NSR leased and operated the CIT until August 27, 2004, when the merger of PL into NSR was completed. Since NSR’s abandonment of 13.26 miles of the CIT in 2010, there remains approximately 1.00-mile of freight rail line, which NSR now seeks to abandon, in accordance with the 1990 agreement, as no freight traffic has transited the Line in 60 months.

(6) Summary of Documents In Carrier's Possession That Might Be Useful for Documenting a Structure That Is Found To Be Historic – Not applicable as there are no NSR owned or maintained structures on the Line.

(7) Opinion Regarding Criteria For Listing In The National Register Of Historic Places NSR believes that the Line would not meet the criteria for listing in the *National Register of Historic Places*. The railroad has no reason to believe that there is any likelihood of finding archaeological resources or historic properties on the Line proposed for abandonment of freight rights. On September 23, 2024, NSR provided MSHPO with a copy of the E&HR for the Line for its consideration. In electronic correspondence received on October 16, 2024 the Maryland Historical Trust opined, “The undertaking will have no effect on historic properties.” NS agrees as this is an abandonment of freight rights and no salvage activities are being performed.

(8) Subsurface Ground Conditions That Might Affect Archaeological Recovery

The railroad is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of freight rights on the Line will not affect any potential archaeological resources. The subsurface of the right-of-

way was initially disturbed in the construction of the railroad line by grading and filling. NSR is only abandoning freights rights and no salvage activities will occur.

(9) **Follow-Up Information** – Additional information will be provided as appropriate.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 412X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION-
IN THE CITY OF BALTIMORE, MD**

Combined Environmental and Historic Report

APPENDIX A

Map



MP UU 1.0

WYMAN PARK DRIVE

W 29TH STREET

W 28TH STREET

MARYLAND TRANSIT
ADMINISTRATION - MTA

JONES FALL EXPRESSWAY

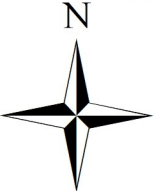
WEST NORTH AVE

NORTH HOWARD STREET

MP UU 0.00

COCKEYSVILLE IT

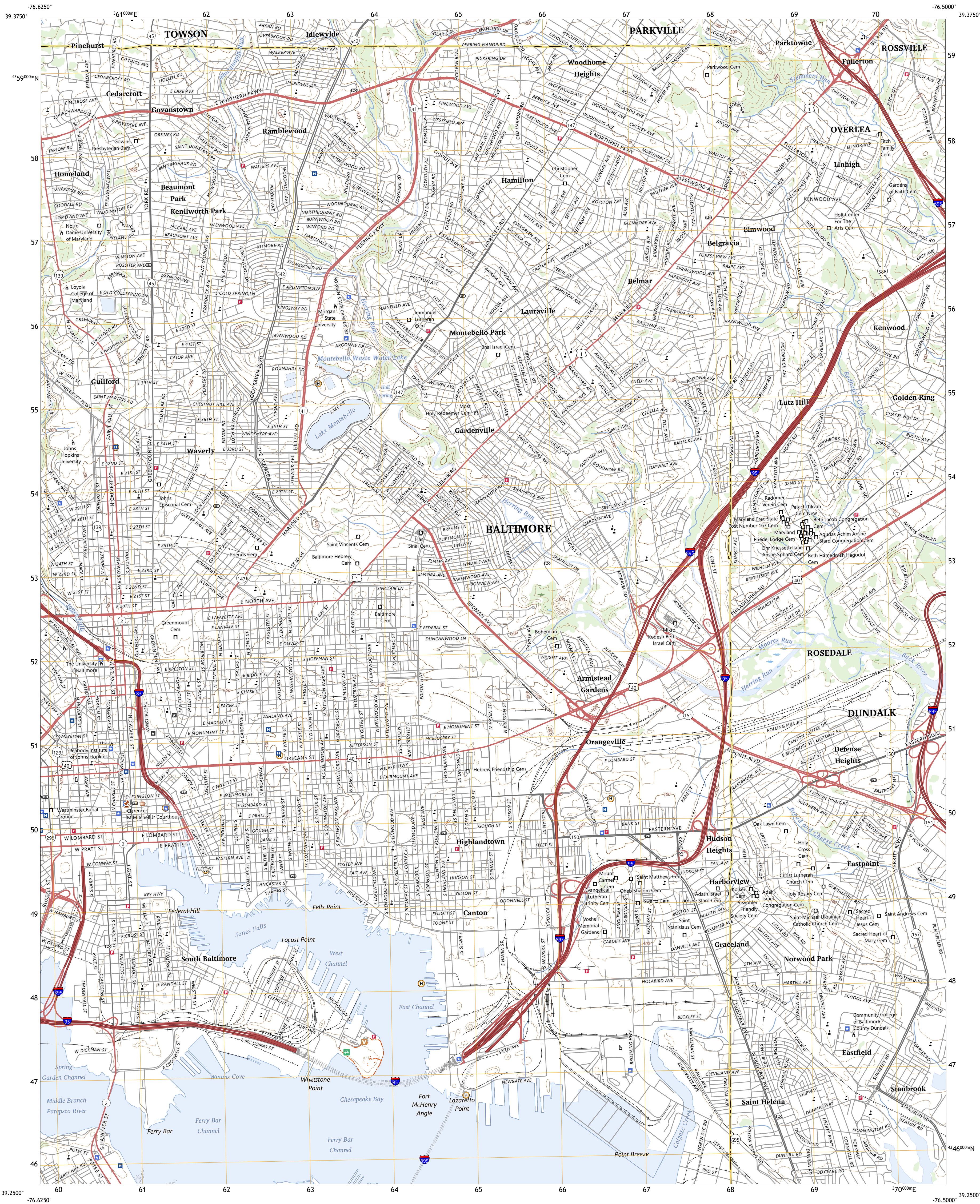
UU 1.00 to UU 0.00
BALTIMORE MARYLAND
Docket Number: AB(290)412X



— MTA Rail - NS Overhead Freight Rights Only

MILEPOST LOCATIONS ARE APPROXIMATE

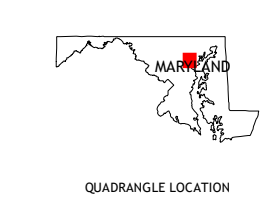
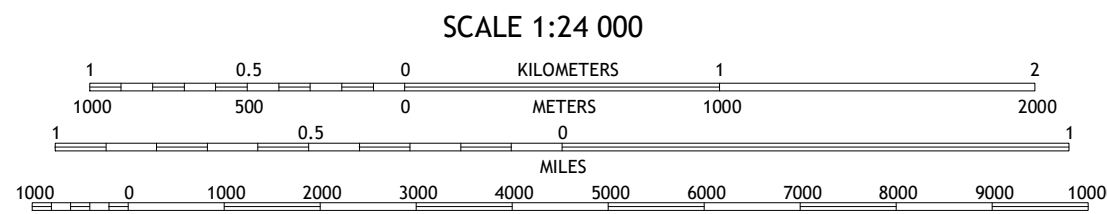
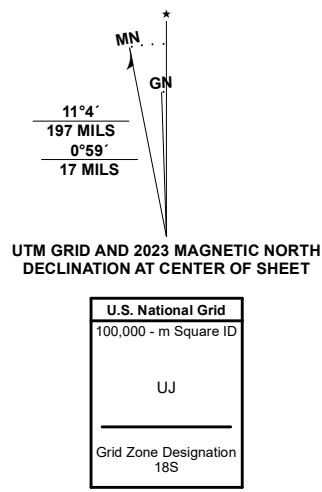
0 400 800 1,600 Feet



Produced by the United States Geological Survey

North American Datum of 1983 (NAD83)
World Geodetic System of 1984 (WGS84). Projection and
1 000-meter grid/Universal Transverse Mercator, Zone 18S
This map is not a legal document. Boundaries may be
generalized for this map scale. Private lands within government
reservations may not be shown. Obtain permission before
entering private lands.

Imagery.....NAIP, August 2018 - November 2018
Roads.....U.S. Census Bureau, 2016
Names.....GNIS, 1979 - 2023
Hydrography.....National Hydrography Dataset, 2004 - 2021
Contours.....National Elevation Dataset, 2016
Boundaries.....Multiple sources; see metadata file 2020 - 2022
Wetlands.....FWS National Wetlands Inventory 2013

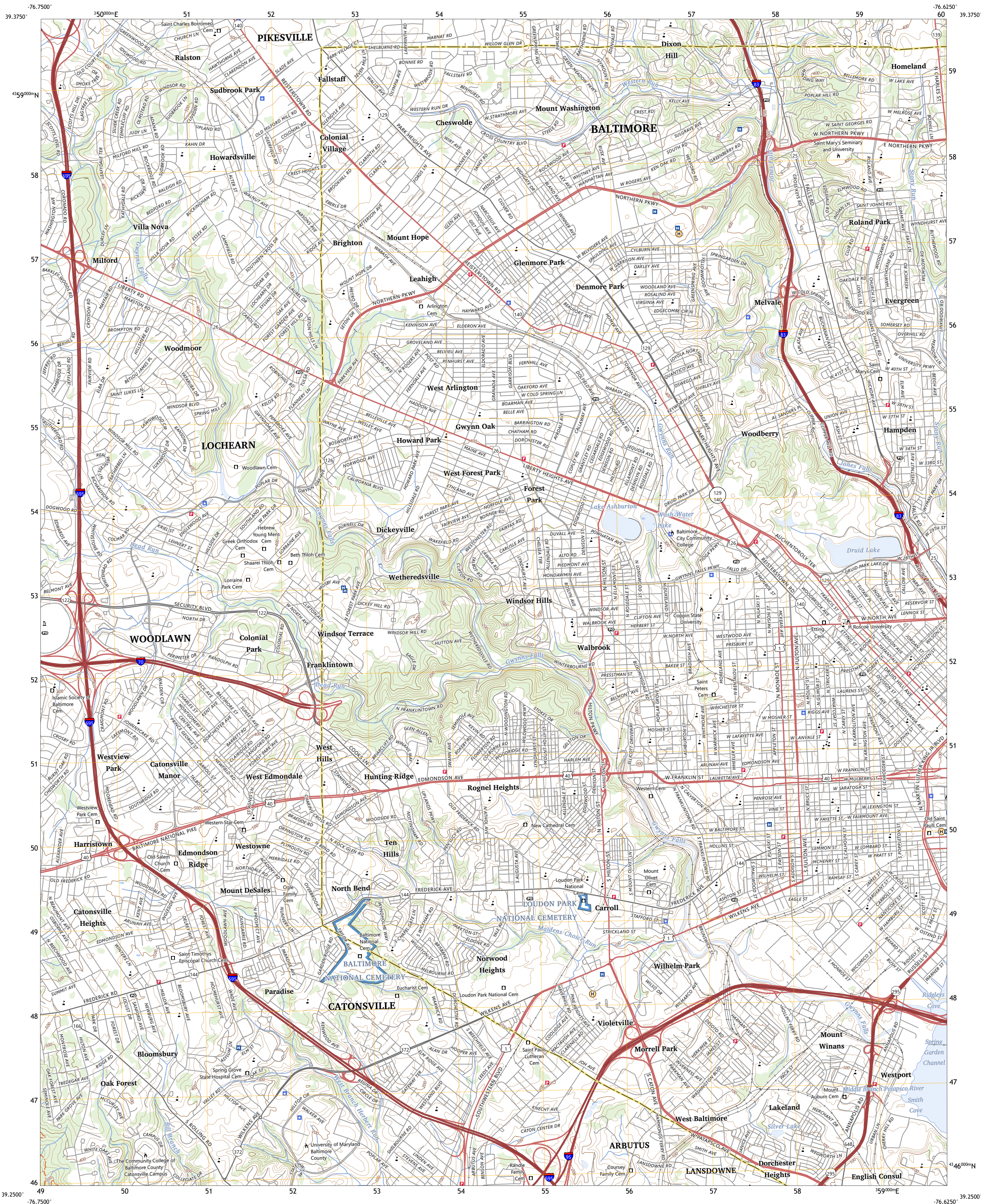


1	2	3
4	5	6
7	8	

1 Cockeysville
2 Towson
3 White Marsh
4 Baltimore West
5 Middle River
6 Relay
7 Curtis Bay
8 Sparrows Point

ROAD CLASSIFICATION		
Expressway	Local Connector	
Secondary Hwy	Local Road	
Ramp	4WD	
Interstate Route	US Route	State Route

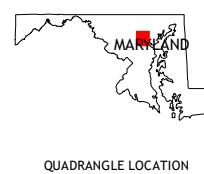
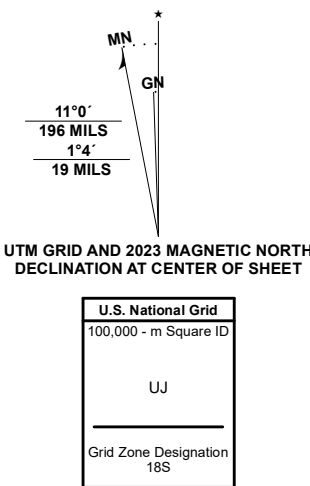
BALTIMORE EAST, MD
2023



Produced by the United States Geological Survey

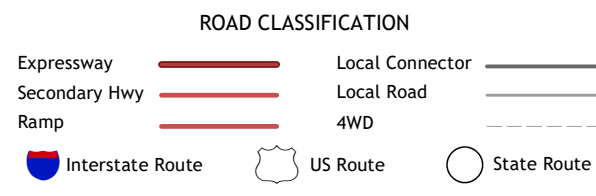
North American Datum of 1983 (NAD83)
World Geodetic System of 1984 (WGS84). Projection and
1 000-meter grid/Universal Transverse Mercator, Zone 18S
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entering private lands.

Imagery.....NAIP, October 2018 - November 2018
Roads.....U.S. Census Bureau, 2016
Names.....GNIS, 1979 - 2023
Hydrography.....National Hydrography Dataset, 2004 - 2021
Contours.....National Elevation Dataset, 2021
Boundaries.....Multiple sources; see metadata file 2013 - 2022
Wetlands.....FWS National Wetlands Inventory 2013

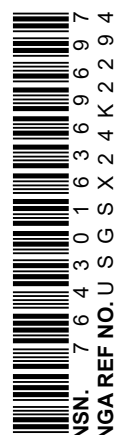


1	2	3
4	5	6
7	8	9

1 Reisterstown
2 Cockeysville
3 Towson
4 Ellicott City
5 Baltimore East
6 Savage
7 Relay
8 Curtis Bay



BALTIMORE WEST, MD
2023



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 412)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION-
IN THE CITY OF BALTIMORE, MD**

Combined Environmental and Historic Report

APPENDIX B

Sample Consultation Letter & Recipient List



Norfolk Southern Corporation
650 Peachtree Street, NW
Atlanta, GA 30308

Scott Plum
Director – Strategic Planning
470 463 6627
scott.plum@nscorp.com

September 23, 2024

[ENTITY}

RE: AB-290 (Sub-No. 412X), Norfolk Southern Railway Company Abandonment – in
Baltimore, MD

[GREETING]

On or about October 23, 2024, Norfolk Southern Railway Company (NSR) plans to request authority from the Surface Transportation Board (STB) to abandon its freight rights on the segment of rail line between Milepost +/- UU 0.00 and Milepost +/- UU 1.00¹, a distance of approximately 1.0 miles in the City of Baltimore, Maryland (“Line”)². The line is currently owned by the Maryland Transit Administration (MTA).

¹ **Explanation of Mileposts, Length of Line.** In its 2007 Petition seeking confirmation that ICC approval of the 1990 transaction was not required, the MTA explained that the CIT is 14.22 miles long but between mileposts 0.0 and 15.4, because milepost 0.00 was moved 1.18 miles up the line when Calvert Station (the location of the original milepost 0.0) was demolished in 1947. Effectively, the 14.22-mile line in 2010 was located between milepost UU 1.18 (located just north of Wyman Park Drive and the end of the CIT line south of the bridge at railroad milepost UU 15.44. *Id.* In NSR’s petition for its 2010 abandonment, it was noted that “NS [was] retaining the freight operating easement, rights and operations for the first mile of the CIT between current Mileposts UU 0.0 and UU 1.00 where NSR operates its Baltimore, MD Thoroughbred Bulk Transfer Terminal.” *See* NSR Petition at 7, n. 6.

² **NSR Acquisition of the Line’s Freight Operating Easements and Rights.** According to NSR’s research, on May 1, 1990, the Maryland Transit Administration (“MTA”) acquired the Cockeysville Industrial Track (“CIT”) from Consolidated Rail Corporation (“Conrail”), a freight railroad, to be used as part of the Central Light Rail Line, a light rail transit service between downtown Baltimore, Timonium and Glen Burnie, Maryland. *See Maryland Transit Administration - Petition for Declaratory Order*, F.D. 34975, Exhibit 1 (STB served December 22, 2006). Pursuant to the “Agreement of Sale,” dated May 1, 1990, and executed by MTA and Conrail, “[t]he Agreement of Sale and the deed reserved to Conrail a perpetual, assignable, exclusive freight operating easement over the CIT, so that Conrail could fulfill its common carrier obligation to provide freight rail service to present and future customers.” *See Maryland Transit Administration - Petition for Declaratory Order*, F.D. 34975, slip opinion at 3 (STB served December 22, 2006). In addition, “[t]he Operating Agreement requires the freight railroad to seek abandonment if it ceases using the CIT track for rail service for 60 consecutive months.” *Id.* Conrail’s interest in the CIT was first allocated initially to Conrail’s former subsidiary, Pennsylvania Lines, LLC

Enclosed is a Combined Environmental and Historic Report (Report) which describes the proposed abandonment and other pertinent information. A map of the proposed track abandonment can be found in **Appendix A** of this report. **Appendix B** of this report lists the various agencies receiving it. **Appendix C** of this report lists various agency responses NSR has received.

As NSR is only abandoning freight rights on a line used by the MTA for passenger operations and not salvaging the line, NSR does not anticipate adverse environmental impacts; however, if you identify any adverse environmental effects, please describe the actions that would assist in alleviating them. Please provide us with a written response indicating any concerns or lack thereof, which will be included in the Report and sent to the Surface Transportation Board (STB).

This Report is being provided so that you may submit information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is incorrect, if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Office of Environmental Analysis (OEA) by telephone at (202) 245-0245 or by mail to:

Surface Transportation Board
395 E Street, S.W., Room 1106
Washington DC 20423-0001

Questions regarding the abandonment process generally, offers of financial assistance, and/or public use or trail use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Based on information in our possession, the Line does not contain federally granted rights-of-way. However, any documentation in NSR's possession will be made available promptly to those requesting it. Please refer to the above Docket when contacting the STB.

Applicable statutes and regulations impose stringent deadlines for processing this action. For this reason your written comments (with a copy to us) would be appreciated within three weeks.

Your comments will be considered by the Board in evaluating the environmental impacts of the contemplated action. In order for us to consider your input prior to filing with the STB, NSR must receive your comments within three weeks. Please provide information to Scott Plum by

("PL"), then, effective June 1, 1999, NSR leased and operated the CIT until August 27, 2004, when the merger of PL into NSR was completed. See Norfolk Southern Railway Company—Petition for Exemption—In Baltimore City and Baltimore County, MD, AB 290 311X (STB Served April 5, 2010). In 2010, the Board granted NSR's exemption to abandon 13.26-miles of the CIT. Id.; see also AB 290 311X at 7, n. 6 (STB served December 16, 2009) ("NSR Petition") ("NSR's calculation of the total mileage for the Line is 0.04-mile (211 feet) longer than the 14.22 miles specified in the Agreement of Sale;" and that "this small difference in the mileage descriptions appears attributable to rounding, since 15.44 rounds to 15.4...").

email or by mail at:

Scott Plum, Director
Strategic Planning – Box 7
Norfolk Southern Corporation
650 West Peachtree Street, NW
Atlanta, GA 30308
(470) 463-6627
scott.plum@nscorp.com

Best regards,

Scott Plum

Attachment

RECIPIENT LIST - AB-290 (Sub-No. 412X)

Proposed abandonment of freight rights on approximately 1.0 miles of track in the City of Baltimore, Maryland.

Maryland State Clearinghouse
Department of State Planning
120 E. Baltimore St., Suite 2000
Baltimore, MD 21202

The Honorable Brandon M. Scott, Mayor
250 City Hall
100 North Holliday Street
Baltimore, Maryland 21202

Dr. John A. Olszewski, Jr.
Baltimore County Executive
The Historic Courthouse
400 Washington Avenue
Towson, MD 21204

Colonel Estee S. Pinchasin
United States Army Corps of Engineers
Baltimore District
2 Hopkins Plaza
Baltimore, MD 21201

Kyla Hastie – Acting Regional Director
US Fish and Wildlife Service
Northeast Region
30 Westgate Center Drive
Hadley, MA 01035

Steve Minkinen
Maryland Fish and Wildlife Conservation
Office
177 Admiral Cochrane Drive
Annapolis, MD 21410-7307

Suzy Daubert – Maryland State
Conservationist
USDA GWCC NRCS
Stop 5598 c/o Annapolis State Office
5601 Sunnyside Avenue
Beltsville, MD 20705

Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Adam Ortiz, Regional Administrator
United States EPA – Region 3
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2029

Serena McIlwain – Secretary
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230

Matt Fleming - Director
Maryland Coastal Zone Management
Program
Chesapeake and Coastal Service
Tawes State Office Building E2
580 Taylor Avenue
Annapolis, MD 21401

Gay Vietzke, Regional Director
National Park Service
Region 1
1234 Market Street, 20th Floor
Philadelphia, PA 19107

Bob Ratcliffe, Chief
Conservation and Outdoor Recreation
Division
Rivers, Trails, and Conservation Assistance
Program
1849 C. Street NW, Room 1344
Washington, DC 20240

NOAA – National Geodetic Survey
Geodetic Services Division
Room 9292, NGS/12
1315 East-West Highway
Silver Spring, MD 20910-3282

Elizabeth Hughes
State Historic Preservation Officer
Maryland Historical Trust
100 Community Place, 3rd Floor
Crownsville, MD 21032-2023

ATTACHMENT 2

**CONSULTING AGENCY RESPONSES TO
ENVIRONMENTAL AND HISTORIC REPORT
(POST-CIRCULATION)**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 412X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION-
IN THE CITY OF BALTIMORE, MD**

Combined Environmental and Historic Report

APPENDIX C

Agency Comments/Responses

February 8, 2023

VIA CERTIFIED MAIL

Norfolk Southern Corporation
Strategic Planning Office
650 W Peachtree Street, NW
Atlanta, GA 30308
ATTN: Scott Plum, Manager II, Strategic Plan

RE: Cockeysville Industrial Track, MP UU-0.0 to MP UU-1.0, Cockeysville, Maryland

Dear Mr. Plum:

The Maryland Transit Administration (“MTA”) is implementing a track reconfiguration project over a segment of the above referenced property for its passenger light rail service. We are writing to request that the Norfolk Southern Railway Company (“NSR”) seek and obtain from the Surface Transportation Board (“STB”) authority to abandon NSR’s common carrier obligation over the segment of the line commonly known as the Cockeysville Industrial Track (“CIT”) between milepost UU-0.0 and UU-1.0 (“Line”). The Line is no longer owned, used, or needed by NSR for common carrier service, and under the governing operating agreement between MTA and NSR, NSR must abandon the Line due to lack of use. NSR’s abandonment is required so that MTA may implement its planned track reconfiguration on the CIT.

The Line is owned by MTA, which provides light rail passenger service over it and the rest of the CIT. MTA acquired the CIT from Conrail pursuant to a transaction in 1990 under which Conrail retained the exclusive right to provide freight common carrier service on the CIT pursuant to Operating Agreement between MTA and Conrail. *See Maryland Transit Administration – Petition for Declaratory Order*, FD 34975 (STB served Oct. 9, 2007). Article 10 of the Operating Agreement provides:

In the event that the Route is not used for rail freight service for sixty (60) consecutive months, Conrail, at its expense, shall promptly take all steps necessary before the Interstate Commerce Commission to file for and pursue abandonment of its easement and common carrier obligations over the entire Route...

NSR acquired the rights to the freight operating easement and freight operating rights over the Line and the rest of the Cockeysville Industrial Track extending to milepost UU-15.44 from the Consolidated Rail Corporation (“Conrail”) under Conrail Transaction Agreement approved by the STB in *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company – Control and Operating Leases/Agreements – Conrail Inc. and Consolidated Rail Corporation*, FD 33388 (STB served July 23, 1998). In 2010, NSR obtained STB authority for, and subsequently consummated, abandonment of the portion of the Cockeysville Industrial Track from milepost UU-1.0 to miles post UU-15.44. *See Norfolk Southern*

Railway Company – Petition for Exemption – In Baltimore City and Baltimore County, MD, AB-290 (Sub-No. 311X). In its petition to the STB in that proceeding, NSR stated the following:

NSR will continue to provide rail freight service to the station of Baltimore, MD and to the NS Baltimore, MD Thoroughbred Bulk Transfer Terminal (formerly the Conrail “Flexi-Flo” bulk terminal facility), which is located along the first mile of the CIT. NSR is retaining its freight service easement, operating rights and operations over that one-mile segment of the CIT.

NSR Petition, AB-290 (Sub-No. 311X), 15-16 (filed Dec. 16, 2009).

It is MTA’s understanding that NSR sold its property interest in what was previously the NS Baltimore, MD Thoroughbred Bulk Transfer Terminal (“Terminal”) in 2019. It is also MTA’s understanding, based on its records, that NSR has made no use of the Line for any reason including to access the Terminal since before January 1, 2018, more than 60 months ago.

As mentioned above MTA is currently undertaking improvements along the CIT to improve its light rail service, which include the removal of crossings formerly used by NSR to access the Terminal. Based on current conditions, MTA believes that there is no present or future need for freight rail access to the Terminal, and that there is, therefore, no need for NSR to retain a common carrier interest in the Line. Pursuant to the Operating Agreement, NSR is required to seek abandonment with the STB (the Interstate Commerce Commission’s successor).

Accordingly, MTA requests that NSR seek and obtain authority to abandon the Line as soon as practicable.

If you have any question or require additional information, please contact me at (410) 767-3698 or via email at mlattin@mdot.maryland.gov.

Sincerely,



Matthew A Lattin, CSM, CPM, CCIM, MSRE
Director, Office of Real Estate

Cc: Julie Sweeney, Principal Counsel, Office of the Attorney General, MDOT MTA
Joshua Mitnick, Asst. Attorney General, Office of the Attorney General, MDOT MTA
Govind Sulibhavi, Manager, Track & Structural Engineering, MDOT MTA
Tony Fusco, Project Manager, Track & Structural Engineering, Wallace Montgomery
Sindy Wenying Dai, P.E, Project Manager, Track & Structural Engineering, Mead & Hunt
Kathy Robertson, Deputy Director, Office of Real Estate, MDOT MTA
file

BRANDON M. SCOTT
Mayor



CHRIS RYER
Director

September 8, 2023

Re: Norfolk Southern Abandonment at 400 W North Avenue

To Whom It May Concern:

Upon evaluation of the site at 400 W. North Avenue, the Department of Planning has no objection to the abandonment of the site. The property is zoned for industrial use and is not located within an Urban Renewal Plan area.

The Department is currently overseeing a State mandated Comprehensive Planning process for the next decade that may include recommended changes in land use, although not at a parcel level. That process will be completed in 2024.

If you have any questions, please feel free to contact Marie McSweeney Anderson, Northern District Planner at marie.anderson@baltimorecity.gov.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized, cursive "C" followed by a long horizontal stroke.

Chris Ryer
Director

From: [Brian Dietz -MDE-](#)
To: [Plum, Scott D.](#)
Cc: [Barbara Krupiarz -MDE-](#)
Subject: Re: [EXTERNAL] Norfolk Southern Railway Company Abandonment - Baltimore, MD
Date: Thursday, October 10, 2024 8:54:48 AM

Thank you for the explanation, Scott. It is much appreciated! Based on what you have told me, the Maryland Department of the Environment - Land Restoration Program has no concern with the proposed abandonment.

Best Regards,

Brian

Brian Dietz, Chief
State Assessment and Remediation Division
Land Restoration Program

On Wed, Oct 9, 2024 at 3:27 PM Plum, Scott D. <Scott.Plum@nscorp.com> wrote:

Brian,

NS is required to consult with various state and federal agencies regarding the proposed abandonment. In this instance, NS is not abandoning a ROW it owns. It is abandoning rights it has on Maryland Transit. We believe it will have no environmental impact as no salvage is being performed on the identified segment. All we're looking for is an opinion from the applicable state/federal agencies that the abandonment will have no detrimental effect on the environment. If you have any additional questions, please don't hesitate to give me a call.

My office number is in the letter, but my cell is 757 375 1428.

Scott

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From: Brian Dietz -MDE- <bdietz@maryland.gov>
Sent: Wednesday, October 9, 2024 9:49:42 AM
To: Plum, Scott D. <Scott.Plum@nscorp.com>
Cc: Barbara Krupiarz -MDE- <barbara.krupiarz2@maryland.gov>
Subject: [EXTERNAL] Norfolk Southern Railway Company Abandonment - Baltimore, MD
Hello Mr. Plum,

My name is Brian Dietz and I work in the State Assessment and Remediation Division of the Maryland Department of the Environment (MDE). This morning I received a September 23, 2024 letter that you directed to the MDE Secretary (Serena McIlwain) regarding the proposed abandonment of an approximate 1-mile segment of rail line in the City of Baltimore.

My unit is responsible for investigating and remediating sites where controlled hazardous substances have been released to the environment. I assume that is why your letter was routed to my attention.

I am unsure how I can help you with this matter. A word of explanation and context would be most appreciated.

Best Regards,

Brian Dietz, Chief
State Assessment and Remediation Division
Land Restoration Program
(410) 537-3488

From: [Maryland Historical Trust](#)
To: [Plum, Scott D.](#)
Subject: [EXTERNAL] MHT e106 project review – MHT Completed Comments
Date: Wednesday, October 16, 2024 1:24:11 PM

Date: October 16, 2024
To: Scott Plum
Norfolk Southern Corporation
Project Name: Norfolk Southern Railway Company Abandonment between Milepost +/- UU 0.00 a distance of 1.0 miles
County: Baltimore City
Agency: Surface Transportation Board
Project #: AB-290 (Sub No. 412X)
Second Agency: -- Not noted --
MHT Log #: 202404410

MHT Response: Thank you for providing the Maryland Historical Trust the opportunity to comment on the above-referenced undertaking using the MHT e106 system. The Maryland Historical Trust has reviewed the submitted project for its effects on historic and archeological resources, pursuant to Section 106 of the National Historic Preservation Act of 1966 and/or the Maryland Historical Trust Act of 1985. We offer the following comments and/or concurrence with the agency's findings:

The undertaking will have no effect on historic properties. Additional consultation with our office may be required if there are any significant changes in project scope or location.

Thank you for your cooperation in this review process. Since the MHT response is now complete, this response will appear in the Completed section of your project dashboard. No hard copy of this response or attachments will be sent. If you have questions, please contact the following MHT project reviewers:

Tim Tamburrino tim.tamburrino@maryland.gov

Beth Cole beth.cole@maryland.gov



Maryland Historical Trust
Project Review and Compliance
100 Community Place
Crownsville, MD 21032
mht.section106@maryland.gov

MHT.Maryland.gov
Planning.Maryland.gov